

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HELENA WILLIS
548 Carol Lane
Elyria, OH 44035

Plaintiff,

V.

NELSON WATSON & ASSOCIATES,
LLC,
80 Merrimack St. Lower Level
Haverhill, MA 01830

Defendant.

Case No.

Division No.

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

HELENA WILLIS (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges
the following against the NELSON WATSON & ASSOCIATES, LLC, L.P.A. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

5. Declaratory relief is available pursuant to 28 *U.S.C.* 2201 and 2202.

PARTIES

6. Plaintiff is a natural person who resides in Elyria, Lorain County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by 15 *U.S.C.* 1692a(3).
7. Pursuant to the definitions outlined in 15 *U.S.C.* 1692a(1-6), Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
8. Defendant is a debt collector with an office in Haverhill, Massachusetts.
9. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C.* § 1692a(6).
10. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
12. Defendant often places up to four (4) collection calls a day to Plaintiff.
13. Defendant has threatened Plaintiff with legal action and wage garnishment if immediate payment is not made.
14. Defendant called Plaintiff's neighbor and requested that Plaintiff neighbor hand deliver a message to Plaintiff that Defendant was attempting to reach her.

15. Defendant fails to inform Plaintiff in each communication that the Defendant is a debt collector (See transcribed voicemail messages attached as Exhibit A).
16. Defendant called Plaintiff a “stupid f*cking b*tch” in connection with its attempts to collect a debt.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

17. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct of which the natural consequence is the abuse and harassment of the Plaintiff.
- b. Defendant violated §1692d(2) of the FDCPA by using obscene or profane language in connection with its attempts to collect a debt from Plaintiff.
- c. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring and engaging Plaintiff in telephone conversations repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- d. Defendant violated §1692e(4) of the FDCPA by falsely threatening Plaintiff with garnishment despite the fact that Defendant does not possess a valid judgment and thus could not legally conduct such action.
- e. Defendant violated §1692e(5) of the FDCPA by falsely threatening Plaintiff with garnishment despite the fact that Defendant does not possess a valid judgment and thus could not legally conduct such action.
- f. Defendant violated §1692e(10) of the FDCPA by using deceptive means to attempt to collect a debt because Defendant falsely threatened Plaintiff with legal action and wage garnishment.

g. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication is from a debt collector.

WHEREFORE, Plaintiff, HELENA WILLIS, respectfully requests judgment be entered against Defendant, NELSON WATSON & ASSOCIATES, LLC, L.P.A. for the following:

18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
19. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
20. Actual damages,
21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
22. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, HELENA WILLIS, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

By: _____/s/Peter Cozmyk_____
Peter Cozmyk,
Attorney for Plaintiff

Ohio Registration No. 0078862
Krohn & Moss, Ltd.
3 Summit Park Drive
Suite 140
Independence, Ohio 44131
phone: (216) 901-0609
fax: (866) 425-3459
e-mail: pcozmyk@consumerlawcenter.com

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, HELENA WILLIS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, HELENA WILLIS hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

10-21-09

Date

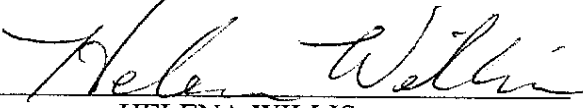

HELENA WILLIS

EXHIBIT A

Good evening, this message of information pertains to Helena Willis, this is Lonnie Gonzales and I am calling with the offices of Nelson, Watson & Associates. It is imperative that you return this phone call today no later than 9 p.m. Eastern Standard Time. I am in regards to a time sensitive issue that does need to be discussed as soon as possible. My direct number is 1-888-269-8913, extension 2211, referring to a personal reference number of CAPT10303 and there is a minimal amount of information I can disclose over the voice mail Helena. It is very important you call me back.

Helena Willis, hi, this is Lonnie Gonzales, I am calling with the offices of Nelson, Watson & Associates. It is important that you return my phone call today that is before 5 p.m. Eastern Standard Time. You can reach me directly at 1-888-269-8913, extension 2211. This is referring to a reference number that is CAPT10303. Again my name is Lonnie, I need a return phone call no later than 5 p.m. Eastern Standard Time. Thank you.

This message is for Helena Willis. Helena, my name is Mr. Rivera. I have a matter here in my office that needs your attention. You need to contact me immediately. The number in my office is 1-888-350-8464, my direct extension is 2020. I will be in my office till 9 Eastern. I need a return phone call before that period of time. Again the number is 1-888-350-8464. The reference number when contacting me back, is CAPT10303. Thank you, you have a good day.

Helena Willis, hi, this is Ms. Gonzales, I am calling with the offices of Nelson, Watson & Associates. It is imperative that you return my phone call today, no later than 5 p.m. Eastern Standard Time. You can reach me directly at 1-888-269-8913, extension 2211 referring to a personal reference number of CAPT10303. Please keep in mind that because there is a minimum amount of information that I can disclose over this voice mail, I am strongly suggesting that you return my phone call today. Again that is before 5 p.m. Eastern Standard Time at 1-888-269-8913, extension 2211, referring to the personal reference number of CAPT10303. Thank you.